



6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R06-OAR-2014-0270; FRL- 9929-38-Region-6]

Approval and Promulgation of Air Quality Implementation Plans;

State of New Mexico; Infrastructure Requirements for the 2008 Ozone and 2010 Nitrogen

Dioxide National Ambient Air Quality Standards and Interstate Transport of Fine

Particulate Matter Air Pollution Affecting Visibility

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is approving a State Implementation Plan (SIP) submittal from the State of New Mexico pertaining to the implementation, maintenance, and enforcement of the 2008 National Ambient Air Quality Standards (NAAQS or standards) for Ozone (O₃) and the 2010 NAAQS for Nitrogen Dioxide (NO₂). EPA is also approving the finding that the State of New Mexico meets the 2006 fine particulate matter (PM_{2.5}) NAAQS requirement pertaining to interstate transport of air pollution and visibility protection.

DATES: This final rule is effective on **[INSERT DATE 30 DAYS AFTER PUBLICATION IN THE FEDERAL REGISTER]**.

ADDRESSES: EPA has established a docket for this action under Docket ID No. EPA-R06-OAR-2014-0270. All documents in the docket are listed on the <http://www.regulations.gov> Web site. Although listed in the index, some information is not publicly available, e.g., Confidential Business Information or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically through <http://www.regulations.gov> or in hard copy at the Air Planning Section (6PD-L), Environmental Protection Agency, 1445 Ross Avenue, Suite 700, Dallas, Texas 75202-2733.

FOR FURTHER INFORMATION CONTACT: Sherry Fuerst, (214) 665-6454, fuerst.sherry@epa.gov (O₃ and NO₂ SIPs); or, (214) 665-6645, young.carl@epa.gov (fine particulate matter).

SUPPLEMENTARY INFORMATION: Throughout this document wherever “we,” “us,” or “our” is used, we mean the EPA.

I. Background

The background for today’s action is discussed in detail in our March 26, 2015, proposal (80 FR 15963). In that rulemaking action, we proposed to approve (1) an August 27, 2013, SIP submittal from the State of New Mexico pertaining to the implementation, maintenance and enforcement of the 2008 ozone NAAQS, (2) a March 12, 2014, SIP submittal pertaining to the

implementation, maintenance and enforcement of the 2008 nitrogen dioxide NAAQS, and; (3) that the November 27, 2012 and October 9, 2014 final SIP actions pertaining to the interstate transport requirement for visibility protection meet the requirement for the 2006 PM_{2.5} NAAQS. The public comment period for the March 26, 2015, proposal (80 FR 15963) expired on April 27, 2015, and we did not receive any comments concerning our proposal. Therefore, we are finalizing our proposed action.

II. Final Action

We are approving the (1) August 27, 2013, SIP submittal from the State of New Mexico pertaining to the implementation, maintenance and enforcement of the 2008 ozone NAAQS, (2) March 12, 2014, SIP submittal pertaining to the implementation, maintenance and enforcement of the 2008 nitrogen dioxide NAAQS, and; (3) the November 27, 2012 and October 9, 2014 final SIP actions pertaining to the interstate transport requirement for visibility protection as meeting the requirement for the 2006 PM_{2.5} NAAQS.

III. Statutory and Executive Order Reviews

Under the Clean Air Act, the Administrator is required to approve a SIP submission that complies with the provisions of the Clean Air Act and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. Accordingly, this action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- Is not a “significant regulatory action” subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4);
- Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the Clean Air Act; and
- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, the SIP is not approved to apply on any Indian reservation land or in any other area where EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications and will not impose substantial direct costs on tribal governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a “major rule” as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by **[INSERT DATE 60 DAYS AFTER PUBLICATION THE FEDERAL REGISTER]**. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purpose of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference,
Intergovernmental relations, Lead, Reporting and recordkeeping requirements.

Dated: June 11, 2015.

Ron Curry,

Regional Administrator, Region 6.

40 CFR part 52 is amended as follows:

PART 52 - APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

Subpart GG – New Mexico

2. The second table in § 52.1620(e) entitled “EPA APPROVED NONREGULATORY PROVISIONS AND QUASI-REGULATORY MEASURES IN THE NEW MEXICO SIP ” is amended by revising the entry for “Infrastructure for 2006 PM_{2.5} NAAQS” and adding new entries at the end for “Infrastructure for the 2008 Ozone NAAQS” and “Infrastructure for the 2010 NO₂ NAAQS”.

The revision and additions reads as follows:

§ 52.1620 Identification of plan.

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(e) * * *

**EPA APPROVED NONREGULATORY PROVISIONS AND QUASI-REGULATORY MEASURES IN THE NEW
MEXICO SIP**

Name of SIP provision	Applicable geographic or nonattainment area	State submittal/ effective date	EPA approval date	Explanation
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Infrastructure for 2006 PM2.5 NAAQS	Statewide, except for Bernalillo County and Indian country	6/12/2009	1/22/2013, (78 FR 4337)	Additional approvals on 7/9/2013, 78 FR 40966 (110(a)(2)(D)(i) (I)) and [Insert date of publication in the Federal Register], [Insert Federal Register citation] (110(a)(2)(D)(i) (II), visibility portion)
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Infrastructure for the 2008 Ozone NAAQS.	Statewide, except for Bernalillo County and Indian country	8/27/2013	[Insert date of publication in the Federal Register] [Insert Federal Register citation]	
Infrastructure for the 2010 NO ₂ NAAQS	Statewide, except for Bernalillo County and Indian country	3/12/2014	[Insert date of publication in the Federal Register] [Insert Federal Register citation]	